

SEPTEMBER 2012

ORAL ARGUMENT

CALENDAR

Updated 09/11/2012

SEPTEMBER, 2012

THERE WILL BE NO COURT MEETING

SEPTEMBER 5, 2012

**10:00 A.M. (FRANKFORT TIME) MOTION PANEL,
JUDGE DIXON, PJ, JUDGE CLAYTON AND
JUDGE MOORE.**

**PHONE NUMBERS WHERE PANEL MEMBERS CAN BE REACHED WHEN ORAL
ARGUMENTS SCHEDULED:**

FRANKFORT – Contact Mary Zagale - (502) 573-7920

LOUISVILLE – Contact Marti Dodd - (502) 595-3440

LEXINGTON (U of K) – Contact Danny Murphy – (859) 257-5155

LEXINGTON (Fayette Cir. Ct.) – Contact Dana Carter (859) 246-2132

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,
FRANKFORT, KENTUCKY**

DATE: Tuesday, September 11, 2012

10:00 AM PJ: STUMBO, HON. JANET L.

CAPERTON, HON. MICHAEL O.

DIXON, HON. DONNA L.

2011CA001874

PHILLIP SEATON v Dr. JOHN M. PATTERSON

Appeal from jury verdict in medical battery case where in surgeon authorized to perform circumcision instead performed penectomy. Issues are whether appellant should have been granted a directed verdict and whether the trial court erred in formulation of the instructions propounded to the jury.

CIVIL

SHELBY COUNTY

HON CHARLES R. HICKMAN

Appellant Atty:

Appellant Name:

GEORGE, KEVIN

SEATON, PHILLIP

Appellee Atty:

Appellee Name:

ROBINSON, CLAYTON

PATTERSON, JOHN

**** NOTE:**

10:45 AM PJ: STUMBO, HON. JANET L.

CAPERTON, HON. MICHAEL O.

DIXON, HON. DONNA L.

2011CA000794

STELLUTI KERR, LLC v BASTIAN MATERIAL HANDLING, LLC

Appeal from judgment following bench trial on breach of contract. Issues include whether the trial court erred in holding that contract between parties was a "contract in perpetuity" and therefore terminable, that contract was terminated after a reasonable period of time, that Appellee did not breach covenant of good faith and fair dealing and that contract was erroneously interpreted by the trial court.

CIVIL

JEFFERSON COUNTY

HON IRV MAZE

Appellant Atty:

Appellant Name:

**BOHNERT, KENNETH
BUSCH, EDWARD**

STELLUTI KERR, LLC

Appellee Atty:

Appellee Name:

HURST, MARK

BASTIAN MATERIAL HANDLING, LLC

**** NOTE:**

**LOCATION: COURT OF APPEALS COURTROOM, 360 DEMOCRAT DRIVE,
FRANKFORT, KENTUCKY**

DATE: Tuesday, September 11, 2012

11:30 AM PJ: STUMBO, HON. JANET L.

CAPERTON, HON. MICHAEL O.

DIXON, HON. DONNA L.

2011CA000956

MICHAEL YOUNG v COMMONWEALTH OF KENTUCKY

2011CA000957

Appeal from conditional guilty pleas to charges of theft by deception by accepting medical expenses from two sources seeking to adopt unborn child. Issues are whether directed verdict should have been entered and whether charge should have been reduced in degree based on the amount of money actually received by Appellants.

CRIMINAL

LAWRENCE COUNTY

HON JOHN DAVID PRESTON

Appellant Atty:

Appellant Name:

DURHAM, ROY II

YOUNG, MICHAEL

MAURER, KAREN

SCHMIDT, KATHLEEN

.....
Appellee Atty:

Appellee Name:

CONWAY, JACK

COMMONWEALTH OF KENTUCKY

JONES, WILLIAM
.....

**** NOTE:**

LOCATION: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, 700 WEST JEFFERSON STREET, LOUISVILLE,

DATE: Wednesday, September 12, 2012

10:45 AM PJ: KELLER, HON. MICHELLE M.

CLAYTON, HON. DENISE G.

MAZE, HON. IRV

2011CA001248

COMMONWEALTH OF KENTUCKY v MATTHEW DEAN BALLINGER

Following Ballinger's indictment for DUI fourth offense within five years, the court determined that the three prior offenses could not be used, because the convictions did not occur until after Ballinger's arrest for the 4th DUI. The Commonwealth appeals the court's remand of the indictment based on the court's determination that there were no grounds for a felony indictment.

CRIMINAL

WARREN COUNTY

HON JOHN R. GRISE

Appellant Atty:

FRYMAN, HEATHER

LAWSON, JAMES

Appellant Name:

COMMONWEALTH OF KENTUCKY

Appellee Atty:

DUPREE, SHANNON

SCHMIDT, KATHLEEN

Appellee Name:

BALLINGER, MATTHEW

**** NOTE:**

11:30 AM PJ: MAZE, HON. IRV

CLAYTON, HON. DENISE G.

KELLER, HON. MICHELLE M.

2011CA000932

STATE AUTO INSURANCE COMPANY v LINDA CRENSHAW

Consolidated cases following SJ in favor of plaintiff in personal injury case on issue of enforceability of settlement agreement accepted four years after it was made. Whether there were genuine issues of material fact regarding whether the settlement offer lapsed during that time or whether there was a "meeting of the minds" so as to create an agreement.

CIVIL

BARREN COUNTY

HON PHIL PATTON

Appellant Atty:

CALL, STEVEN

NUNERY, DAVID

Appellant Name:

STATE AUTO INSURANCE COMPANY

Appellee Atty:

DICKINSON, TEMPLE

MAULDIN, TIMOTHY

MEREDITH, KENNETH II

Appellee Name:

BOYD, ELIZABETH

COMPTONS AUTO SALES

GILLENWATER, TIMOTHY

CRENSHAW, LINDA

**** NOTE:40 MINUTE ORAL**

**LOCATION: UNIVERSITY OF KENTUCKY COLLEGE OF LAW, COURTROOM, LAW
BUILDING, 620 SOUTH LIMESTONE STREET, LEXINGTON,**

DATE: Wednesday, September 26, 2012

10:30 AM PJ: TAYLOR, HON. JEFF S.

NICKELL, HON. C. SHEA

VANMETER, HON. LAURANCE B.

2011CA000509

JANE ODOM v BERNARD WALT

Whether circuit court erred by awarding an equitable mortgage in favor of Walt.

CIVIL

FAYETTE COUNTY

HON ERNESTO M. SCORSONE

Appellant Atty:

Appellant Name:

VICROY, STEVEN

ODOM, JANE

Appellee Atty:

Appellee Name:

**CLENDENEN, CHRISTOPHER
DAVIS, HENRY**

WALT, BERNARD

**** NOTE:**

11:15 AM PJ: TAYLOR, HON. JEFF S.

NICKELL, HON. C. SHEA

VANMETER, HON. LAURANCE B.

2011CA000473

LV VENTURES, LLC v TREY SCHOTT

2011CA000640

2011CA001132

2011-CA-000473 and 2011-CA-001132 – Whether circuit court erred by submitting jury instructions on both breach of contract and fraudulent inducement; whether appellants were entitled to a directed verdict; whether claims were barred by statute of limitations.

2011-CA-000640 – whether circuit court erred by not awarding more attorney's fees.

CIVIL

FAYETTE COUNTY

HON JAMES D ISHMAEL

Appellant Atty:

Appellant Name:

**CURRY, CHARLES
MYERS, TODD**

LV VENTURES, LLC

Appellee Atty:

Appellee Name:

MARINO, KARA

SCHOTT, TREY

**** NOTE:**

LOCATION: UNIVERSITY OF KENTUCKY COLLEGE OF LAW, COURTROOM, LAW BUILDING, 620 SOUTH LIMESTONE STREET, LEXINGTON,

DATE: Wednesday, September 26, 2012

01:30 PM PJ: NICKELL, HON. C. SHEA

TAYLOR, HON. JEFF S.

VANMETER, HON. LAURANCE B.

2011CA001747

MICHAEL MARTINDALE v FIRST NATIONAL INS. CO. OF AMERICA

In Unfair Claims Settlement Practices Act case, whether appellant's claims following car accident were properly dismissed under theory of judicial estoppel where circuit court concluded husband and wife concealed bad faith claims from bankruptcy court? Whether court erred in granting summary judgment on bad faith claims where it was alleged facts supporting appellant's position were not considered and genuine issues of material fact existed?

CIVIL

WOODFORD COUNTY

HON PAUL F ISAACS

Appellant Atty:

**GEERTZ, TIMOTHY
MEHR, M.**

Appellant Name:

MARTINDALE, MICHAEL

Appellee Atty:

VOSE, LESLIE

Appellee Name:

FIRST NATIONAL INS. CO. OF AMERICA

**** NOTE:**

02:15 PM PJ: VANMETER, HON. LAURANCE B.

TAYLOR, HON. JEFF S.

NICKELL, HON. C. SHEA

2011CA001583

O'SHEA'S-BAXTER, LLC v COMMONWEALTH OF KENTUCKY

Zoning: constitutionality of KRS 241.075; limitation of liquor licenses in city of first class based on distance. special v. general legislation.

CIVIL

FRANKLIN COUNTY

HON THOMAS D. WINGATE

Appellant Atty:

HANDMAKER, KENNETH

Appellant Name:

O'SHEA'S-BAXTER, LLC

Appellee Atty:

HUMPHRESS, STEPHEN

O'CONNELL, MICHAEL

SEXTON, DAVID

Appellee Name:

COMMONWEALTH OF KENTUCKY

**LOUISVILLE/JEFFERSON COUNTY METRO
GOVERNMENT**

**** NOTE:**